

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

DAWN CORDERO,
Plaintiff,

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VS.
TARGET CORPORATION,
Defendant

NO. 3:18-CV-00328

**COUNTER-AFFIDAVIT CONCERNING COST
OF MEDICAL SERVICES REGARDING DAWN CORDERO**

BEFORE ME, the undersigned authority, on this day personally appeared *Rhonda R. Guitreau*, after being duly sworn, deposed as follows:

My name is *Rhonda R. Guitreau*. I am over the age of 21, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct. Please see my *curriculum vitae* attached hereto and incorporated herein by reference as **Exhibit A**.

I am a medical billing expert consultant with more than 35 years of experience in the healthcare profession. I have developed an expertise in setting, adjusting, and maintaining client fee schedules and anticipated reimbursement rates at usual and customary fees for various geographic locales based on major insurance allowable fee databases. Over the past 35 years, I have developed an expertise in physician and facility billing, medical fee negotiations, and medical bill auditing. I have reviewed, analyzed, and reported on usual and customary medical fees for over 600 cases involving medical, surgical and pharmacy services provided by a diverse medical provider base.

Based upon my knowledge and experience I am qualified to provide an opinion in contravention to the affidavit regarding the cost of medical services provided for claimed

or actual injuries to **DAWN CORDERO**. I rely upon widely accepted and highly credible medical industry resources and data regarding the usual, customary and reasonable medical fees and costs for counties in Texas such as those provided to this patient. Such medical industry and market resources are generally accepted in the industry as providing a credible foundation to determine the usual, customary and reasonable medical fees and costs for specific medical procedures and costs in specific geographic areas.

I have reviewed the statements of charges incurred for services provided to **DAWN CORDERO** by **BASSETT SURGERY CENTER and THE BACK AND NECK INSTITUTE** for treatment of alleged injuries. Based upon my knowledge, experience and billing expertise, and after consulting the medical industry and market resources referenced herein below, it is my opinion that not all the charges levied are within the usual, customary, and reasonable variance for the geographical area in which the services were rendered. A listing of the reduced service charges is attached hereto and incorporated herein by reference as **Exhibit B**.

The billing codes and associated charges for treatment referenced by the Plaintiff's bills were collected and a line by line review of all fees by each provider was analyzed utilizing Context4Healthcare's (C4H) Usual, Customary and Reasonable (UCR) database. It is the standard accepted practice in the medical community to rely on this type of database to determine fair and reasonable fees for services rendered. C4H's proprietary UCR database consists of a range of benchmark values ranging from the 25th through the 95th percentile for 290 geo-zips throughout the United States. The Usual, Customary and Reasonable benchmark fees are derived by a team of fee experts and mathematicians who analyze hundreds of millions of actual submitted charges collected from claims filed with various electronic data clearinghouses. The analyzed claims are not discounted for government and/or commercial payer agreements thus reflecting a true fair market value for the provider's charges. I have reported the charges for services rendered to **DAWN CORDERO** at the 80th percentile level. The 80th percentile indicates that the charges billed by **BASSETT SURGERY CENTER and THE BACK AND NECK INSTITUTE** exceed 80%

of all charges submitted by other providers in the same geographic area for the same services. The 80th percentile charge represents a level that third-party payers, state agencies, commercial entities and others in the healthcare industry find to be a fair and reasonable charge when negotiating out of network provider reimbursement. Context⁴ Healthcare's UCR methodology is attached to this affidavit as **Exhibit C** and incorporated as if set forth fully herein.

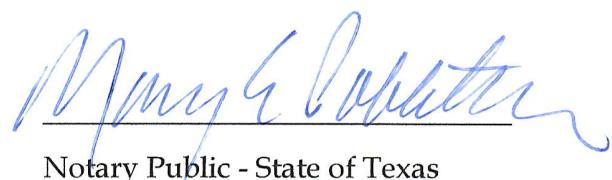
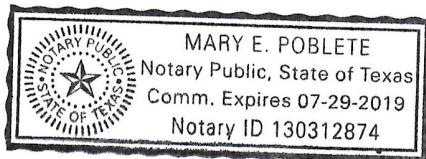
My opinions are directed at the cost of the charges for medical services rendered by each referenced provider and my opinions are not directed at whether such services were medically necessary.

FURTHER affiant sayeth not.



Rhonda R. Guitreau

SWORN TO AND SUBSCRIBED before me on the 2nd day of July 2019.



Mary E. Poblete
Notary Public - State of Texas

RHONDA R. GUITREAU

Medical Billing Expert Consultant
10455 North Central Expressway, Suite 109
Dallas, Texas 75231
(214) 534-8998
rguitreau@mrsreview.com

Professional Profile:

- 38 plus years in the Healthcare Industry
- 15 plus years billing, coding, and collecting medical claims for professional providers
- 8 plus years reviewing and analyzing medical bills for fair and reasonable charges

Expertise & Knowledge Areas:

- Hospital Administrative Director – Cardiopulmonary & Neurodiagnostics
- Hospital Coordinator, Educator and Assistant Department Head
- Home Health Care Respiratory Care and Marketing Director
- Branch Manager – Home Health Center
- Executive Director – Medical Equipment Service to Major Hospitals
- Owner/Founder – Pediatric Medical Facility
- Healthcare Consultant – Physical Medicine, Pain management, Anesthesia, Surgery
- Owner/President – Medical Billing and Collections Firm
- Practice Management Consultant – Clinic & Facility based providers
- Legal Medical Billing Reviews – Utilization of Industry Standard UCR databases; Commercial insurance allowables, Medicare & Medicaid fees and State workers' comp plan charges

Professional Experience:

December 2010 – Current

Medical Billing Expert Witness/Consultant
Medical Reimbursement Specialists

Uniquely qualified to review and evaluate physician and facility medical bills to determine usual, customary and reasonable medical fees. Professional review of medical expenses after medical necessity has been determined to report reasonable and fair charges based on credible industry resources, UCR databases and cost comparisons by geographic area. 1000's of medical bills reviewed regarding the costs of medical and surgical services provided to date. Testified by deposition – 15+cases. 500+ controverting affidavits to date.

Professional Experience:

December 2007 – Current

**President-Owner
Practice Management Consultant
Dallas Medical Billing – Dallas, TX**

Provide professional medical billing, collections and consulting for specialty providers with complex billing and reimbursement issues...Establish, review and implement providers' annual fee schedules utilizing industry standard methodologies such as UCR databases, econometric models, comparative market analyses and acuity factors. Negotiate out of network reimbursement amounts based on current UCR data and commercial insurance allowable fees.

January 2004 – November 2007

**Vice-President, Business Development
Dallas Medical Billing – Dallas, TX**

January 1990 – December 2003

**Owner/Founder
Child Health America – Baton Rouge, LA**

Implemented business plan for start-up of pediatric clinic to provide newly formed State of Louisiana Preventive Health Program for low-income children (Kid Med) ...Hosted Bobby Jindal, Asst. Secretary for US Dept. of Health and Human Services news conference to announce new program.

August 1988 – October 1989

**Executive Director
Advanced Medical Concepts –
Baton Rouge, LA**

Implemented business plan...Established operational budget...Hired professional staff... Established administrative procedures and reporting... Acquired inventory...Established fees and secured referral base for this new hospital owned durable medical equipment company and infusion pharmacy service.

June 1986 – April 1988

**Branch Manager
Primedica/AMI Home Health Care Equip
Centers
Slidell & Hammond, LA**

Planned, coordinated, and implemented opening of new branch office... Responsible for marketing, cost controls, collections and corporate reporting...Recruited, hired and trained new employees...Purchased initial inventory... Established and maintained all fees and charges.... Combined budget of \$1 million.

Professional Experience:

April 1984 – July 1985

**Respiratory Care/Marketing Director
National Home Health Care – Amarillo, TX**

Supervised 3 staff marketing special services to physicians...Implemented creative strategies to build referrals and client base...Made home visits to infants on apnea monitors subject to SIDS (Sudden Infant Death Syndrome)

July 1982 – January 1984

**Administrative Director – Humana, Inc.
Garland Community Hospital- Garland, TX**

Supervised 15 technical staff for Respiratory Therapy, Cardiology, Neuro-Diagnostics and Non-Invasive Vascular Lab...Managed budget of \$1.5 million...Served on Safety, CPR, Infection Control, Quality Assurance and ICU hospital committees

October 1981 – July 1982

**Pulmonary Rehabilitation Coordinator
Methodist Hospital of Dallas – Dallas, TX**

Supervised 30 technical personnel, 5-7 students in specialized department...Developed team approach for in-patient and out-patient programs...Instructor for respiratory technology students from El Centro College.

August 1979 - September 1981

**Assistant Department Head/Coordinator
Veterans Administrative Hospital –
Houston, TX; Shreveport, LA**

Supervised exercise physiology lab...Participated in drug research studies...Conducted in-service education...Coordinated pulmonary function laboratory services

September 1977 – August 1979

**Staff Respiratory Therapist
Schumpert Medical Center – Shreveport, LA**

Worked in Intensive Care Unit, Neonatal Intensive Care Unit, Emergency Room...Participated in Care Flight of critically-ill neonates.

Education:

Bachelor's Degree, December 1979

**Louisiana State University at Shreveport
Focus in Respiratory Therapy; Business**

Certifications:

Registered Respiratory Therapist – 1981

Certified Respiratory Therapy Technician – 1979

Certified Medical Insurance Specialist - 2004

Continued Education:

Professional Journals-

Healthcare Finance News – leading news source for developments in Healthcare finance industry

Modern Healthcare – leading source of healthcare business & policy issues

Healthcare Business & Technology – focuses on trends & issues facing executives in the healthcare industry.

Professional Seminars/Webinars –

- FairHealth.org and FairHealth Access
- Novitas Solutions - Centers for Medicare and Medicaid Services
- SEAK – The Expert Witness Training Company
- ExpertPages

Ongoing Review of: -

- Medical Billing industry standards
- Medical Billing cases in litigation - Contract breaches, personal injury, work comp
- Payment settlements re: Subrogation, liens, provider letters of protection
- State and Federal regulations re: Medical bill transparency laws and payment methodologies
- Major Commercial insurance provider policies, allowable fees, correct coding initiatives, plan descriptions/benefits
- New, investigational medical procedures pending insurance reimbursement by major payers
- Provider newsletters from Blue Cross Blue Shield – Texas, Louisiana, Illinois; United Healthcare, Cigna, Aetna, Medicare, Texas Medicaid Health Partnership
- State and Federal guidelines re: expert witnesses and rules of evidence
- Court decisions involving medical billing expert witnesses

DAWN CORDERO

	A	B	C	D	E	F	G
	PROVIDER	DATE OF SERVICE	CPT CODE OR DESCRIPTION	PROVIDER TOTAL CHG	FAIR MARKET VALUE BASED ON 80% CONTEXT ⁴ HEALTHCARE UCR DATABASE OR PROVIDER FULL CHARGE	VARIANCE	*CODE
1							
2	BASSETT SURGERY CENTER - 79925						
3		7/26/2018	27095	\$17,000.00	\$3,925.35	\$13,074.65	O
4			73525-26	\$1,208.00	\$136.07	\$1,071.93	O
5			73510-26	\$158.00	\$51.65	\$106.35	O
6			99152	\$368.00	\$120.03	\$247.97	O
7			J2001	\$21.00	\$10.27	\$10.73	O
8			Q9967	\$179.00	\$20.30	\$158.70	O
9			J1030	\$84.00	\$25.77	\$58.23	O
10			J2400	\$84.00	\$50.46	\$33.54	O
11			A4550	\$16.00	\$16.00	\$0.00	
12			A4930	\$13.00	\$5.10	\$7.90	O
13		12/20/2018	64483	\$4,200.00	\$2,934.37	\$1,265.63	O
14			64450	\$4,200.00	\$1,674.54	\$2,525.46	O
15			77003-TC	\$500.00	\$340.95	\$159.05	O
16			72100-TC	\$500.00	\$103.15	\$396.85	O
17			99152	\$368.00	\$120.03	\$247.97	O
18			Q9967	\$179.00	\$20.30	\$158.70	O
19			J2001	\$21.00	\$10.27	\$10.73	O
20			J2400	\$84.00	\$50.46	\$33.54	O
21			J1030	\$84.00	\$25.77	\$58.23	O
22			A4550	\$16.00	\$16.00	\$0.00	
23			A4930	\$13.00	\$5.10	\$7.90	O
24							
25	TOTAL			\$29,296.00	\$9,661.94	\$19,634.06	O
26							
27	THE BACK & NECK INSTITUTE - 79925						
28		9/28/2017	99245	\$750.00	\$629.34	\$120.66	O
29			73502	\$250.00	\$150.91	\$99.09	O
30		6/22/2018	99215	\$500.00	\$300.16	\$199.84	O
31		7/26/2018	27095	\$2,500.00	\$933.66	\$1,566.34	O
32			73525-TC	\$500.00	\$282.22	\$217.78	O
33			73502-TC	\$250.00	\$99.26	\$150.74	O
34		8/13/2018	99215	\$500.00	\$300.16	\$199.84	O
35		11/1/2018	72148	\$2,250.00	\$2,250.00	\$0.00	
36		11/14/2018	99215	\$500.00	\$300.16	\$199.84	O
37		12/20/2018	64483	\$5,000.00	\$1,918.76	\$3,081.24	O
38			64450	\$1,000.00	\$497.09	\$502.91	O
39			72100-26	\$500.00	\$66.26	\$433.74	O
40		1/3/2019	99215	\$500.00	\$300.16	\$199.84	O
41		1/18/2019	72146	\$2,250.00	\$2,224.21	\$25.79	O
42		2/6/2019	99215	\$500.00	\$300.16	\$199.84	O

Prepared by: Rhonda R Guitreau

Medical Billing Expert Witness

	A	B	C	D	E	F	G
1	PROVIDER	DATE OF SERVICE	CPT CODE OR DESCRIPTION	PROVIDER TOTAL CHG	FAIR MARKET VALUE BASED ON 80% CONTEXT ⁴ HEALTHCARE UCR DATABASE OR PROVIDER FULL CHARGE	VARIANCE	*CODE
43	THE BACK & NECK INSTITUTE - 79925						
44		20610		\$200.00	\$200.00	\$0.00	
45		J1100 X 4		\$40.00	\$40.00	\$0.00	
46		3/29/2019	99215	\$500.00	\$300.16	\$199.84	O
47							
48	TOTAL			\$18,490.00	\$11,092.67	\$7,397.33	O
49	*O - Provider charges exceed usual, customary and reasonable fees charged by other providers in the same geographic area.						



Ususal, Customary & Reasonable *Healthcare Fee Data*



| Industry Challenge

Ensuring that the right service is administered at the right cost is a cornerstone of proper healthcare coverage. However, with one doctor billing a service at \$100, and another doctor right next door billing the same service at \$800, how is a payer or third-party administrator to know what's usual, customary, and reasonable?



| Context Solution

Context has been a leader in usual, customary and reasonable fee (UCR) analysis since 1994. Our UCR fee data offerings make certain that insurance companies, employer groups, and other healthcare organizations have the accurate and comprehensive fee information necessary to operate in today's complex healthcare environment.

Context UCR products are constructed using a proven statistical methodology. Billions of provider charges collected semi-annually, with only the most current two years used in the statistical model. Context's proprietary methodology offers you unique advantages.

First, using provider charges means our customers have access to both "allowable" and "co-pay" amounts. Second, charges are not altered through heterogeneous payer adjudication processes

that often include faulty policies, errors and fraud / waste / abuse. Third, using 24 month rolling charge data means customers get the most relevant fee information.

UCR fee data is arrayed in precentiles from the 25th through the 95th. It is also divided into geo-zip regions around the country to allow for regional differences in healthcare costs. UCR fee data is updated semi-annually to deliver the most timely and relevant fee data possible.

| Real-time Cloud Service Available

Context is the only nationally recognized UCR provider accessible through real-time web services. Our real-time option eliminates the need to load databases or track versioning throughout the year.

| Broadest Fee Coverage

Context UCR offers the broadest fee coverage in the market today. Many customers that move from other products are surprised not only at the coverage of scope and specialty, but the availability of fee data for new codes.



Context's UCR includes:

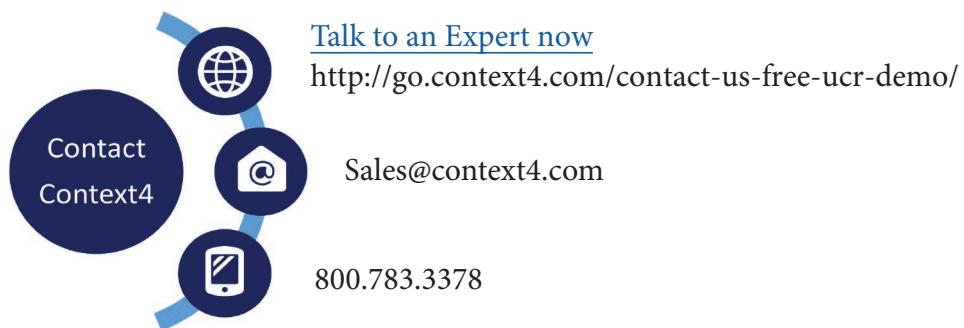
- **Medical** Professional medical fees from 39 specialties. It includes hard to find behavioral health fees.
- **Dental** Professional dental fees.
- **Anesthesia** Anesthesiologist professional fees including duration and base units for benchmarking.
- **HPCPS** Non-physician services and miscellaneous items. It includes hard to find DME fees.
- **Outpatient Facility** Facility costs for hospital outpatient or ambulatory surgical center services.
- **Inpatient Facility** Facility costs for inpatient services. Based on the CMS MEDPAR data it includes DRG-based fees that are “per day” and “per stay”.

| The Payer Community's Trusted Source

Hundreds of payers, TPAs and providers use Context UCR data. Examples include out-of-network claim pricing, cost containment, re-pricing, charge master maintenance, health planning and population health cost forecasting.

| Free Fee Evaluation

Contact us today for a free fee evaluation. Send us 10 of your most common procedure codes and three zip codes. We will pull UCR fees for the 25th, 50th, and 95th percentiles. We will demo the results and usage of our Fee Viewer Pro application tool.





Context⁴ Healthcare UCR

Summary

The healthcare industry for decades has had a need for information about prevailing rates in multiple geographic regions, and at multiple percentiles, for all medical procedures. This information was originally challenging for payers and provider groups to acquire. First, this requires the availability of large quantities of actual claim data for all geographical areas in which the entity wishes to do business. Secondly, not all medical procedures may be commonly performed in all areas, which may not allow for a statistically valid prevailing rate to be directly determined from a simplistic reading of the data.

The Context⁴ Healthcare (Context) Usual, Customary & Reasonable (UCR) Fee database solves these problems and provides both medical providers and healthcare payers a statistically valid tool to help determine reimbursement and billing rates for medical procedures. For each medical procedure code, fees are available for all geographic regions of the United States at multiple percentiles.

Standards: Data sources and validation

The key to industry acceptance of Context's UCR has been, and continues to be, the quality of the data that is used as input to the statistical model. According to the Centers for Medicare & Medicaid Services (CMS), the definition of UCR is "The amount paid for a medical service in a geographical area based on what providers in the area usually charge for the same or similar medical service." Under that definition, it's imperative that actual provider charges are used to determine the UCR. Context has invested, and continues to invest, significantly in acquiring large volumes of actual claim charge data submitted by providers in all areas of the country. Over a billion actual submitted claim charges are added semi-annually, representing more than 70% of all claims submitted in the United States. The UCR database is updated semi-annually using the most recent 24 months of data to ensure the most relevant data is always used in each update. *The raw data which is used has not been altered or filtered in any way by any entity, including payers, from the original claims submitted by the healthcare providers.* Therefore, Context's UCR is based on actual provider charges.

Context accomplishes the task of data validation by removing invalid provider zip codes, as well as removing invalid procedure codes and other obvious errors in the data. Extreme fee outliers are also removed. This requires separating valid submitted charges from data entry errors. Additional in-depth, proprietary data validation processes occur as part of the Context statistical model.

General Methodology

The Context methodology for creating UCR was originally developed by highly skilled, experienced PHd level statisticians. Context employs similar statisticians in the maintenance of the statistical model and to assist in customer support. Nothing is outsourced.

The core of the Context methodology involves dividing the process of determining a UCR fee into two parts. The first part involves determining a relative value. This is meant to represent the value of a specific procedure relative to other procedures. The second part is to calculate a conversion factor. These conversion factors are meant to represent the effects of geography on prices, and are calculated at various percentiles. A UCR fee is then calculated by multiplying a relative value specific to each medical procedure by a conversion factor (or CF) which is specific to a geographical region, and to a specific percentile. ***This methodology has been generally accepted in the industry and used by multiple vendors for decades.***

Geographic areas are at the heart of the concept of UCR. The industry accepted methodology for designating a geographic area for UCR purposes is through a three-digit zip level representing various generally-contiguous zip code areas. Context has developed approximately 290 geographic areas (“GeoZips”) for UCR. Multiple factors go into determining the Context GeoZips, including economic similarities, population size, and number of medical practitioners. The GeoZip methodology as designed by Context, is extremely important to the validity of the UCR to achieve statistical balance and guard against any single large medical entity establishing the UCR for the GeoZip.

General Acceptance: Context⁴ Healthcare’s position in the industry as a UCR vendor

Context is a trusted, recognized source of UCR to the healthcare industry, and has been for many years.

Context’s Medical UCR was introduced into the marketplace in 1994. The HCPCS, Anesthesia, Dental, and Outpatient Facility UCR products were introduced into the marketplace in 1999. The Inpatient UCR product was introduced into the marketplace in 2015.

Context has over 450 customers using the various UCR products. These customers include approximately 220 provider/hospital entities and approximately 230 payer entities.

Potential Error Rate

The Context UCR products have been in the marketplace for over twenty years. Evaluation of customer support requests to answer questions about specific UCR fees due to provider appeals shows that Context receives approximately 65 support requests annually, on average. Context’s error rate is extremely low, with only a single error identified in the fee for one code in one geographic area in the past two years.

Peer Review/Publication: Third party evaluation

The Context UCR has been subjected to intensive evaluation by Oxford Outcomes and Avalon Health Economics. The blog posting by Avalon Health Economics is attached. The Oxford Outcomes evaluation concluded, after conducting a thorough review of the Context UCR process, that the Context UCR was “reasonable and consistent with best practices.” The Avalon Health Economics blog compares Context UCR methodology with other private and public data sources and states that “the C4H data sourcing is more likely to provide representative data compared to other common sources of fee data.”